

TITLE 4. COMMERCE, PROFESSIONS, AND OCCUPATIONS**CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS**

(Authority A.R.S. § 32-3504 et seq.)

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ARTICLE 3. HEARINGS*Article 2, consisting of Sections R4-45-301 and R-45-302, adopted effective September 12, 1996 (Supp. 96-3).*

Section

- R4-45-301. Hearing Procedures
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ARTICLE 1. GENERAL PROVISIONS**R4-45-101. Definitions**

In addition to the definitions in A.R.S. § 32-3501, in this Chapter, unless otherwise specified:

1. "ACLS" means Advanced Cardiac Life Support Protocols.
2. "Applicant" means an individual who meets the qualifications of A.R.S. § 32-3523 and applies for licensure under A.R.S. § 32-3522.
3. "Approved continuing education" means a planned course or program that the Board confirms meets the criteria in R4-45-210 or is qualified by the American Association for Respiratory Care or the Arizona Society for Respiratory Care.
4. "BLS" means Basic Life Support Protocols.
5. "CPR" means cardiopulmonary resuscitation.

6. "Contested case" means the same as defined in A.R.S. § 41-1001.
7. "Continuing education unit" or "CEU" means a segment of an approved continuing education course or program.
8. "Day" means calendar day.
9. "Direct supervision" means that a licensed respiratory care practitioner, or physician licensed under A.R.S. Title 32, Chapters 13 or 17, is physically present at a work site and readily available to provide respiratory care to a patient or observe and direct the practice of a temporary licensee.
10. "Executive Director" means the officer employed by the Board to perform administrative and investigative functions.
11. "health professional", as defined in A.R.S. § 32-3201, means a licensee, in addition to the health professionals listed.
12. "Individual", as used in A.R.S. § 32-3521(B)(4), means only those persons listed with current, valid certifications, registrations, or licenses acting within the scope of their authorized practice.
13. "License" means the document issued by the Board to practice respiratory care in Arizona.
14. "License application package" means a license application form and any documents required to be submitted with the application.
15. "Licensee" means an individual who holds a current license issued under A.R.S. Title 32, Ch. 35.
16. "National Board for Respiratory Care, Inc." or "NBRC" means the national credentialing board for respiratory therapy.
17. "Party" means the same as the definition in A.R.S. § 41-1001.
18. "Pharmacological, diagnostic, and therapeutic agents", as used in A.R.S. § 32-3501(5), means medications that are aerosolized and given through artificial airways or through vascular access.
19. "Temporary license" means the document issued by the Board under A.R.S. § 32-3521 that allows an applicant to practice respiratory care under direct supervision before the Board issues the applicant a license.
20. "Verification of license" means a form the Board provides to an applicant to submit for completion to a state to confirm that the applicant currently holds or previously held a license, certification, or registration.
21. "Verification by a licensed respiratory therapist or respiratory therapy technician", as used in A.R.S. § 32-3521(B)((7) and (C), means a licensee's written confirmation, before equipment is delivered, that the equipment is consistent with the prescription and needs of the patient.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).
 Amended by final rulemaking at 5 A.A.R. 1110, effective
 March 22, 1999 (Supp. 99-1).

R4-45-102. Fees

- A.** The Board shall charge the following fees:
1. Application for a license, \$100;
 2. Application based on a diploma from a foreign respiratory therapy school, \$200;

3. Initial license, \$100;
 4. Biennial renewal of a license, \$100;
 5. Renewal of a temporary license, \$75;
 6. Verifying an Arizona license to another state:
 - a. Current valid license, \$25;
 - b. Expired license, \$50;
 7. Duplicate license or duplicate wallet license card, \$25;
 8. Copy of the Board's Respiratory Care Practitioner List compiled under A.R.S. § 32-3504(A)(7):
 - a. Noncommercial, \$25;
 - b. Commercial, \$25 or the amount allowed under A.R.S. § 39-121.03(A), whichever is greater;
 9. Insufficient funds check submitted to the Board as payment of any fee, \$25;
 10. Fingerprint fee, under A.R.S. § 41-1008(C), in the form of a certified check or money order, \$50;
 11. Transcription of hearing under A.R.S. § 41-1092.07.E:
 - a. Copy of audiotape, \$25;
 - b. Any party that requests a transcript of a proceeding shall pay the costs of the transcript to the court reporter or other transcriber.
 12. Photocopying under A.R.S. § 39-121.03, \$1 per page.
- B.** With the exception of the fingerprint fee specified in subsection (A)(10), all fees shall be remitted to the Board of Respiratory Examiners by personal check, cashier's check, or money order. All fees remitted to the Board are nonrefundable, except as provided in A.R.S. § 41-1077.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).
 Amended by final rulemaking at 5 A.A.R. 1110, effective
 March 22, 1999 (Supp. 99-1). Amended by final
 rulemaking at 6 A.A.R. 1575, effective April 4, 2000
 (Supp. 00-2).

R4-45-103. Service by the Board

Service of any decision, order, subpoena, notice, or other written process may be made by, for, or on behalf of the Board by personal service or by mailing a copy by certified mail. Service by certified mail shall be made to the address of record on file with the Board. Service upon an attorney who has appeared on behalf of a party constitutes service upon the party. If service is by certified mail, service is complete upon deposit in the United States mail.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-104. Change of Name or Address

- A.** A licensee shall notify the Board in writing within 30 days after the licensee's name is legally changed. The notice shall include a notarized or certified copy of the official document evidencing the name change. At the time of notification, the licensee shall request a duplicate license in the new name and shall pay the fee prescribed in R4-45-102(A)(7).
- B.** A licensee shall notify the Board in writing within 10 days after a change in the licensee's address of record.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

ARTICLE 2. LICENSURE

R4-45-201. Application

- A.** An applicant for a license to practice as a respiratory care practitioner shall submit the following information on a form furnished by the Board.
1. Applicant's full name and social security number;
 2. Applicant's current mailing and permanent addresses;
 3. Employer's name, address, and phone number;

4. Applicant's area of care or specialty;
 5. Applicant's birth date;
 6. Applicant's home and work phone numbers;
 7. Any name by which the applicant has ever been known. The applicant shall submit documentation if the applicant is applying for licensure under a different name than that on the applicant's credentials, educational degree, or diploma;
 8. A statement of the facts entitling the applicant to take an examination or to receive a license without examination under R4-45-206;
 9. Name of any state or province in which the applicant has been granted a certification, registration, or license as a respiratory care practitioner; including certificate number, date issued, expiration date, and a statement whether that certificate, registration, or license has ever been the subject of discipline, censure, probation, practice restriction, suspension, revocation, or cancellation;
 10. Whether the applicant has ever been denied a professional license or certificate by a governing licensing authority and, if the answer is yes, a complete explanation of the denial including date, state or province, and a copy of any order issued;
 11. Whether the applicant is the subject of any pending disciplinary action that is directly or indirectly related to the practice of respiratory therapy and, if the answer is yes, a complete explanation, including date, state or province, and a copy of any order issued;
 12. Whether the applicant has ever voluntarily surrendered a professional license and, if the answer is yes, a complete explanation, including dates, state or province, and a copy of any order issued;
 13. Whether the applicant has ever filed an application for a respiratory care practitioner license in Arizona and, if the answer is yes, the date;
 14. Whether the applicant has been enrolled in or committed to a substance abuse program (substance abuse includes alcohol) in the past 10 years and, if the answer is yes, a complete explanation, including date, place, and a copy of any documentation of completion of the program;
 15. Omitting minor traffic violations (infractions), whether the applicant has ever been convicted of, pled no contest (nolo contendere) to, entered into any agreement concerning an arrest or charge (even if the agreement resulted in a dismissal or expungement), or has an outstanding arrest or charge for any violation of any law of any state of the United States, or a foreign country and, if the answer is yes, a complete explanation, including place, date, and a copy of any pertinent documentation such as court orders or plea agreements;
 16. Whether the applicant has even had an intemperance to drugs or alcohol and, if the answer is yes, a complete explanation;
 17. Applicant's physical description, including height, weight, eye and hair color;
 18. Highest level of education completed by applicant;
 19. Consistent with the Board's statutory authority, such other information or documentation as the Board may deem necessary to fully evaluate the applicant;
 20. A record or documentation release and Applicant's sworn statement verifying the truthfulness of the information provided by the applicant and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules.
- B.** An applicant shall submit or have submitted on the applicant's behalf the following with the application form:

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1. 2" by 2" color, bust photograph of applicant;
 2. Photocopy of the applicant's diploma awarded upon successful completion of a respiratory therapy training program, or letter of completion from a respiratory therapy training program, that provides the date of the applicant's successful completion;
 3. If NBRC-certified, a photocopy of the applicant's registration or certification issued by the NBRC;
 4. A verification of license, completed, signed, and authenticated by seal or notarization by the board of each state in which the applicant holds or has held certification, licensure, or registration as a respiratory care practitioner;
 5. If foreign-trained, the applicant shall cause the foreign respiratory therapy school to deliver to the Board certified copies of course transcripts as well as all information concerning the applicant's course of study and the applicant shall provide a photocopy of the applicant's diploma from a foreign respiratory therapy school;
 6. The required fee;
 7. A full set of fingerprints submitted on a card provided by the Board for a state and federal criminal background check along with a certified check or money order in the amount prescribed at R4-45-102(A)(10) as authorized at A.R.S. § 41-1008(C);
 8. A photocopy of the applicant's NBRC CRTT exam results. The exam results in this subsection are not required for issuance of a temporary license under R4-45-213; and
 9. The documents and information under R4-45-215(D). The documents and information in this subsection are not required for issuance of a temporary license under R4-45-213.
- C. An applicant shall inform the Board in writing of any change in the applicant's address of record within 10 days from the date of change.
- D. An applicant shall be a high school graduate or have obtained a General Equivalency Diploma (GED).

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).
Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

R4-45-202. Minimum Standards Curriculum

A training program for respiratory therapists or respiratory therapy technicians shall consist of a curriculum conforming to the requirements of the Essentials and Guidelines of an Accredited Education Program for the Respiratory Therapy Technician and Respiratory Therapist as adopted in 1962, and revised in 1986 (and no later amendments or editions) by the Joint Review Committee for Respiratory Therapy Education of the Commission on Accreditation of Allied Health Education Programs (CAAHEP), which is incorporated by this reference and on file with the Board and the Office of the Secretary of State.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-203. Examinations

- A. Except when a license may be issued without an examination pursuant to A.R.S. § 32-3524, an applicant shall pass a written examination for Certified Respiratory Therapy Technicians provided by the NBRC. The passing score shall be a scaled-score set by the NBRC.
- B. An applicant shall inform the Board that the applicant passed the Certified Respiratory Therapy Technicians examination by one of the following methods:

1. Forward a copy of either the examination results or certificate, or
 2. Direct the NBRC to forward a copy of either the examination results or certificate.
- C. The examination results or certificate shall be provided to the Board as soon as possible.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-204. Application Based on Foreign Training

If an application for a license is based on a diploma from a respiratory therapy school located outside the United States, the applicant shall cause the school from which the diploma was issued to deliver to the Board certified copies of course transcripts and other information concerning the applicant's course of study sufficient to enable the Board to determine whether the course of study is equivalent to the Board's minimum standards.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-205. Application Based on Licensure By Another State

- A. If an application for a license is based on licensure by another state, the applicant shall cause the state that issued the license to deliver to the Board a certified copy of the license and a Verification of License regarding the status of applicant's license in that state.
- B. An applicant shall cause the state in which the applicant is licensed to deliver to the Board either a copy of the results of the NBRC examination or a copy of an other examination administered to the applicant, the results of the other examination, and any information necessary to enable the Board to determine whether the other examination is equivalent to the NBRC examination.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-206. Licensure Based on Organizational Registration or Certification

The Board shall issue a license to an applicant without examination if the applicant:

1. Is qualified pursuant to A.R.S. § 32-3523,
2. Files an application for licensure,
3. Satisfies the requirements prescribed in A.R.S. § 32-3524, and
4. Is registered as a respiratory therapist or certified as a respiratory therapy technician by the NBRC.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-207. Renewal

- A. A respiratory care practitioner's 1st license expires on the licensee's 2nd birthday following issuance of the license. Thereafter, a respiratory care practitioner's license expires every other year on the licensee's birthday. To apply for renewal of a license, a licensee shall complete a license renewal application form and:
1. Pay the renewal fee prescribed in R4-45-102(A)(4), and
 2. Complete the required continuing education units.
- B. The Board shall notify a licensee by mail at the licensee's address of record of:
1. Need to renew the licensee's license, and
 2. Expiration of the licensee's license.
- C. If an expired license is not renewed before 2 years from the date of expiration, an individual may obtain a new license only by applying as a new applicant.

- D.** Misrepresentation of information on the renewal application or of compliance in acquiring CEUs constitutes grounds for disciplinary action.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-208. Continuing Education Requirements

Continuing education is required as a condition of licensure renewal.

1. A respiratory care practitioner shall acquire 20 CEUs during every 2-year licensure period. To renew a license, a respiratory care practitioner shall report compliance with the continuing education requirements. Documentation showing evidence of compliance shall be submitted only if requested by the Board.
2. During the 1st licensure period, a licensee shall use the licensure issuance date as the beginning of the period in which the licensee is required to acquire CEUs. Licensees shall acquire 20 hours of CEUs before expiration of the 1st licensure period. Subsequent continuing education periods coincide with subsequent licensure periods.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-209. Approved Continuing Education Programs

- A.** The Board shall accept for CEUs a course or program meeting the criteria set forth in R4-45-210. The Board shall have the authority to audit programs offering CEUs for compliance with the criteria.
- B.** Any course or program approved by the American Association for Respiratory Care or the Arizona Society for Respiratory Care shall be accepted by the Board for CEUs.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-210. Criteria for Approved Continuing Education Courses and Programs

- A.** Approved continuing education courses and programs shall meet the following criteria:
 1. The content of the course or program is relevant to the scope of practice of respiratory care as defined in A.R.S. § 32-3501(5), and
 2. At least 2/3 of the course or program hours relate to clinical practice.
- B.** The nonclinical course or program hours may cover:
 1. Activities relevant to specialized aspects of respiratory care, such as education, supervision, and management;
 2. Health care cost containment or cost management;
 3. Preventative health services and health promotion;
 4. Required abuse reporting; and
 5. Other subject matter required by statute or rule to be included in continuing education for licensed healing arts practitioners.
- C.** The faculty who provide the continuing education shall be knowledgeable in the course or program subject matter as evidenced by:
 1. A degree from an accredited college or university and verifiable experience in the subject matter, or
 2. Teaching and clinical experience in the same or similar subject matter.
- D.** A provider of continuing education that wishes to grant CEUs shall apply for approval. The application for approval shall include:
 1. List of educational objectives;
 2. Description of the teaching methods, for example: lecture, seminar, audio visual materials, or simulation;

3. Description of the manner in which participants will be involved in the learning activities; and
4. Names and qualifications of all faculty.

- E.** Course or program providers shall maintain a record of who attended each course or program for 3 years.
- F.** All course or program providers shall provide documentation to each participant that includes: participant's name and respiratory care practitioner license number, course or program title, number of CEUs, date or dates, and name and address of provider.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-211. Audit and Sanctions for Noncompliance

- A.** The Board shall audit a random sample of licensees for compliance with the continuing education requirements. If documentation of compliance is incomplete, the licensee shall correct the deficiency. If the audit is conducted in conjunction with the license renewal, the licensee shall provide documentation proving compliance within 60 days of expiration of the licensee's license. If a licensee fails to submit documentation of compliance within this time, the Board shall revoke the licensee's renewed license and cause the renewal fee to be forfeited. The Board may audit all late renewals for compliance with continuing education requirements.
- B.** Licensees shall make documentation of compliance with the continuing education requirements available to the Board upon request.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-212. Waiver of Requirements

At the time of making application for renewal of a license, a licensee may request a waiver from completion of the continuing education requirements. The Board shall grant a waiver only if the licensee verifies in writing that during the period immediately before expiration of the license, the licensee:

1. Resided in a country outside the United States for at least 1 year, reasonably preventing completion of continuing education requirements;
2. Was absent from Arizona for at least 1 year, reasonably preventing completion of the continuing education requirements; or
3. Was prevented from completing the continuing education requirements for reasons of health or other good cause including:
 - a. Physical or mental disability of the licensee for at least 1 year, reasonably preventing completion of continuing education requirements; or
 - b. Physical or mental disability of a member of the licensee's family for at least 1 year and the licensee had responsibility for the family member's care, preventing completion of the continuing education requirements.
4. A disability claimed under subsection (3) shall be verified in writing by a licensed physician or surgeon.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-213. Temporary Licensure

- A.** The Board shall issue a temporary license, valid for 8 months, to an applicant only after a complete application, including all necessary documents and fees, is reviewed by the Board's Executive Director and the applicant is determined to be eligible to apply for a license pursuant to A.R.S. § 32-3523. An applicant who is issued a temporary license shall perform res-

piratory care services only under direct supervision. The temporary license may be renewed for an additional 120 days. An individual may receive only 1 8-month temporary license and 1 120-day temporary license renewal.

- B. A temporary licensee who seeks renewal of a temporary license shall submit a request for renewal to the Board on a form prescribed by the Board.
- C. The request for a renewed temporary license shall:
 - 1. Include an address of record,
 - 2. Be typed or written in black ink,
 - 3. Be signed by the applicant, and
 - 4. Be accompanied by the following:
 - a. The service cost prescribed in R4-45-102(A)(5), and
 - b. A statement under oath that the temporary license has not expired and the temporary licensee is registered to take the next scheduled NBRC examination.
- D. A temporary licensee who is unable to submit the statement described in subsection (C)(4)(b) may request an opportunity to explain this inability to the Board.
- E. The Board shall administratively close an application if the applicant fails to apply for renewal of a temporary license within 60 days before expiration of the temporary license. An individual who wishes to be considered for licensure after the individual's file has been administratively closed shall reapply.
- F. Reapplication does not qualify an individual for a 2nd temporary license. No individual shall receive more than 1 temporary license.
- G. A temporary licensee is subject to disciplinary action by the Board pursuant to A.R.S. § 32-3553.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-214. Standards of Professional Conduct

Conduct or practice that is contrary to recognized standards of ethics of the respiratory therapy profession, as used in A.R.S. § 32-3501(10)(i), includes the following:

- 1. Engaging in the practice of respiratory care in a manner that harms or may harm a patient or that the Board determines falls below the community standard;
- 2. Procuring or attempting by fraud or misrepresentation to procure a license or renewal of a license to practice respiratory care;
- 3. Violating a formal order, condition of probation, or stipulation issued by the Board;
- 4. Obtaining a fee by fraud, deceit, or misrepresentation;
- 5. Falsely claiming attendance at a continuing education course or program to meet license renewal requirements;
- 6. Endangering a patient's or the public's physical or emotional health or safety or engaging in conduct or practice that may reasonably be expected to do so;
- 7. Engaging in sexual intimacies with a patient;
- 8. Committing an act of sexual abuse, misconduct, harassment, or exploitation;
- 9. Acting in a manner that the Board determines, based on community standards, constitutes incompetence, gross negligence, repeated negligence, or negligence that results in harm or death of a patient;
- 10. Abandoning or neglecting a patient, including failing to report for or leaving a respiratory therapy assignment before properly advising appropriate personnel;
- 11. Using or being under the influence of alcohol, illegal drugs or substances, or drugs or substances that impair judgment, while on duty in any health care work location;
- 12. Impersonating another licensed practitioner;

- 13. Knowingly employing, directing, or supervising an individual in the performance of respiratory care who is not authorized to practice respiratory care;
- 14. Violating the confidentiality of information concerning a patient;
- 15. Inaccurately recording, falsifying, or altering a patient record, including patient charts or medication administration records;
- 16. Misrepresenting or omitting facts on an application for employment as a respiratory care practitioner;
- 17. Retaliating against any person who reports in good faith to the Board alleged incompetence or illegal or unethical conduct of any practitioner;
- 18. Using, removing, or possessing property belonging to an individual or entity without authorization;
- 19. Threatening the physical health or safety of a Board, or Board staff, member; and
- 20. Knowingly exceeding the scope of practice for a respiratory care practitioner at any health care location as the scope of practice is defined by that health care entity.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

Amended by final rulemaking at 5 A.A.R. 1110, effective March 22, 1999 (Supp. 99-1).

R4-45-215. Procedures for Processing Initial License Applications; Time-frames

- A. Within 14 days of receiving an initial license application package, the Board shall notify an applicant that the package is either complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.
- B. An applicant with an incomplete package shall supply the missing information within 210 days from the date of the notice. If the applicant fails to do so, the Board may close the file. An applicant whose file has been closed, and who later wishes to become licensed, shall apply anew.
- C. Upon receipt of all missing information, the Board shall notify the applicant that the package is complete. The Board shall not send a separate notice of completeness if the Board grants or denies application within the administrative completeness review in subsection (F)(1).
- D. An application for initial licensure is not complete until the Board receives the results of the state and federal criminal background check required at A.R.S. § 32-3504(A)(6), and the applicant fully complies with the requirements of R4-45-201, the applicable provisions of R4-45-202 through R4-45-206, and submits the fee prescribed in R4-45-102(A)(3).
- E. The Board shall grant or deny a license no later than 90 days from the postmark date of the notice advising the applicant that the package is complete.
- F. For the purpose of A.R.S. § 41-1073, the Board establishes the following licensing time-frames for an initial license application:
 - 1. Administrative completeness review time-frame: 15 days;
 - 2. Substantive review time-frame: 90 days;
 - 3. Overall time-frame: 105 days.
- G. If the Board denies a license, the Board shall send the applicant a written notice explaining:
 - 1. The reason for denial, with citations to supporting statutes or rules;
 - 2. The applicant's right to seek a fair hearing to challenge the denial; and
 - 3. The time periods for appealing the denial.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
1110, effective March 22, 1999 (Supp. 99-1).

R4-45-216. Procedures for Issuing License Renewal Applications; Time-frames

- A.** Within 7 days of receiving a license renewal application, the Executive Director shall notify an applicant that the license application package is complete or incomplete. If the package is incomplete, the Board's notice shall specify the missing information.
- B.** The Board shall not send a notice of completeness if the Board renews the license within the administrative completeness time-frame in subsection (F)(1).
- C.** An application for license renewal is not complete until the applicant fully complies with R4-45-207 and R4-45-208.
- D.** The Board shall grant or deny a license renewal within 60 days from the postmark date of the completion notice (the substantive review time-frame) as follows:
 1. For a license renewal applicant who submits an application package prior to the expiration date of the applicant's existing license:
 - a. If the application package is complete, the Executive Director shall renew the license; or
 - b. If the application package is incomplete and the applicant supplies the missing information prior to the date of expiration of the existing license, the Executive Director shall renew the license;
 2. For an applicant with an incomplete application package who supplies the missing information within 7 days after the date of expiration of a license, or an applicant who submits a complete application package within 7 days after the date that the applicant's license expired, the Executive Director shall review the applicant's compliance with A.R.S. § 32-3556. The Board shall notify the applicant of the Board requirement for a signed statement that the applicant has or has not violated A.R.S. § 32-3556. The applicant shall have 7 days from the postmark date of the Board's notice of the required statement to submit the statement. Upon receipt of a complete license renewal application package and the signed statement:
 - a. For an applicant who has not knowingly violated A.R.S. § 32-3556, the Executive Director shall renew the license and issue a letter of concern conditioned upon Board ratification within the substantive review time-frame;
 - b. For an applicant who has knowingly violated A.R.S. § 32-3556, the Board shall deny the renewal unless the applicant can demonstrate to the Board that:
 - i. No person has been harmed by the violation, and
 - ii. The applicant understands the nature and consequences of the applicant's actions.
 - iii. The Board may grant a conditional renewal based upon its assessment of the evidence presented by the applicant under this subsection;
 - c. For an applicant with an incomplete application package who supplies the missing information more than 7 days after the date of expiration of a license, or for an applicant who submits an application package more than 7 days but less than 2 years after the date that the applicant's license expired, the Executive Director shall review the applicant's compliance with A.R.S. § 32-3556. The Board shall notify the applicant of the Board requirement for a signed statement that the applicant has or has not violated A.R.S. § 32-3556. The applicant shall have 7 days

from the postmark date of the Board's notice of the required statement to submit the statement. Upon receipt of the signed statement, the Board shall deny the renewal unless the applicant can demonstrate to the Board that:

- i. No person has been harmed by the violation, and
 - ii. The applicant understands the nature and consequences of the applicant's actions.
 - iii. The Board may grant a conditional renewal based upon its assessment of the evidence presented by the applicant under this subsection;
- E.** An applicant who submits an application package more than 2 years after the date that the previously held license expired shall apply as a new license applicant.
 - F.** For the purposes of A.R.S. § 41-1073, the Board establishes the following licensing time-frames for renewal of a license:
 1. Administrative completeness review time-frame: 7 days;
 2. Substantive review time-frame: 60 days;
 3. Overall time-frame: 67 days.
 - G.** If the Board denies a license renewal, the Board shall send the applicant written notice explaining:
 1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to challenge the denial; and
 3. The time periods for appealing the denial.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
1110, effective March 22, 1999 (Supp. 99-1).

R4-45-217. Appeal from Denial

- A.** If the Board denies an application, an applicant may make a written request for a hearing to review the denial. The applicant shall file the request with the Board within 15 days following service of notice of the denial. The request shall state specifically the reasons why the Board should review its decision. The Board shall schedule the hearing at its next meeting or at the 1st meeting that is convenient for all parties. The Board shall conduct the hearing in accordance with A.R.S. § 41-1092 et seq.
- B.** If an applicant whose application is denied does not request a hearing to review the denial or if the denial is affirmed, the Board shall administratively close the applicant's file. An individual who wishes to be considered for licensure after the individual's file has been administratively closed shall reapply.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R.
1110, effective March 22, 1999 (Supp. 99-1).

ARTICLE 3. HEARINGS**R4-45-301. Hearing Procedures**

The following procedures are applicable to all hearings conducted pursuant to A.R.S. § 32-3553(I):

1. A complaint and notice of hearing shall be served upon all parties at least 20 days before the date set for hearing.
2. A licensee served with a complaint and notice of hearing shall file an answer within 10 days of service of the complaint, admitting or denying each allegation of the complaint.
3. Before the hearing, a complaint and notice of hearing may be amended to add new or additional grounds. The licensee shall file an amended answer to the amended complaint within 10 days of being served.

4. If a party fails to appear, the hearing may be held in the party's absence.
 5. The chairperson of the Board or the designated presiding officer may continue, reschedule, or extend a hearing for good cause or for the performance of acts required by law or the Board.
 6. Hearings conducted by the Board shall be open to the public.
 7. The designated presiding officer shall conduct the proceedings and rule on the admissibility of evidence.
 8. All hearings shall be mechanically or stenographically recorded. The Board is not required to transcribe the record of a hearing unless there is an appeal to the superior court. Upon written request, the Board shall either transcribe the record or allow the individual requesting the record to have it transcribed. In either case, the individual requesting the record shall pay to have it transcribed.
 9. In all cases determined by hearing, the Board shall issue a decision and order in accordance with A.R.S. Title 41, Chapter 6.
2. Unsupported by any competent evidence as disclosed by the entire record,
 3. Materially affected by unlawful procedures,
 4. Based on a violation of any constitutional provision, or
 5. Arbitrary or capricious.
- D.** The Board may affirm or modify the decision or grant a rehearing or review to all or some of the parties and on all or some of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified.
- E.** Not later than 15 days after a decision is rendered, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. The order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted.
- F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may serve opposing affidavits within 10 days after service of the motion. This period may be extended by the Board for an additional period not exceeding 20 days for good cause shown or upon written stipulation of the parties. Reply affidavits may be permitted.
- G.** If, in a particular decision, the Board makes specific findings that the immediate effectiveness of the decision is necessary for preservation of the public health, safety or welfare, the decision may be issued as a final decision without an opportunity for rehearing or review. If an application for judicial review of the decision is made, it shall be made in accordance with A.R.S. § 12-901 et seq.

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).

R4-45-302. Rehearing or Review of Decision

- A.** Except as provided in subsection (G), any party who is aggrieved by a decision of the Board may file with the Board, not later than 15 days after service of notice of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for a rehearing or review.
- B.** A party may amend a motion for rehearing or review at any time before the motion is ruled upon by the Board. Any party may file a response within 10 days after service of a motion or amended motion. The Board may require the filing of written briefs addressing the issues raised in the motion and may provide for oral argument.
- C.** A motion for rehearing or review of the decision may be granted based on a contention that the decision was:
1. Founded on or contained errors of law including errors of construction or application of relevant rule,

Historical Note

Adopted effective September 12, 1996 (Supp. 96-3).